

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Alberto Lujan,
Petitioner
v.

Civil No. 04-cv-247-SM

United States of America,
Respondent

O R D E R

The clerk shall schedule an evidentiary hearing in light of the government's position that prior defense counsel's representational errors did not result in prejudice to defendant at sentencing because, even though physicians' opinions that unequivocally state that defendant's medical condition "will result in a significant reduction of his life expectancy" were easily obtainable, those opinions could not have been supported by "competent and sufficient medical records." Accordingly, says the government, it would still have been entitled under the plea agreement to oppose defendant's downward departure motion, and, that motion still would have been denied.

The purpose of the hearing shall be to determine whether defendant was denied his right to effective assistance of counsel

at sentencing and whether his sentence should be vacated and a new sentencing proceeding held. Defendant shall be present.

SO ORDERED.

Steven J. McAuliffe
Chief Judge

August 26, 2005

cc: Randy Olen, Esq.
Donald A. Feith, Esq.
Ronald L. Abramson, Esq.